IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of: §
§
    Lazaridis et al.   §   Confirmation No.: 7167
§
Application No.: 09/783,726   §   Art Unit: 2448
§
Filed: February 14, 2001   §   Examiner: Aaron Strange

For: SYSTEM AND METHOD FOR PUSHING INFORMATION FROM A HOST SYSTEM
     TO A MOBILE DATA COMMUNICATION DEVICE

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

REPLY BRIEF UNDER 37 C.F.R. § 41.41

Responsive to the Examiner's Answer dated July 18, 2012 with respect to the pending appeal in the above-captioned patent application, Appellant hereby submits this Reply Brief pursuant to 37 C.F.R. § 41.41.

REMARKS AND REPLY ARGUMENT

To the extent necessary and/or applicable, Appellant hereby incorporates by reference Sections I through X of Appellant's Appeal Brief filed on June 27, 2012.

Appellant notes that the Examiner's Answer does not contain any new grounds of rejection.

With respect to the Examiner's Response to Appellant's arguments, Appellant respectfully replies as follows.

On pages 11-12 of the Answer, the Examiner has remarked as follows regarding Appellant's arguments (1) and (2):

> As an initial matter, it is noted that the current claims fail to define a "push architecture" and merely state in the preamble that the claimed method and instructions effectuate "pushing" data items. Furthermore, AirMobile explicitly discloses that messages are "pushed" out to clients (pp. 30-31). The mere fact that the AirMobile Server reference describes polling that occurs inside the server does not preclude the AirMobile system from being a "push architecture", especially in light of the explicit characterization of AirMobile as a "server push" model within the document itself.
>
> Furthermore, the current claims contain no language that precludes internal server polling, and merely require messages to be "continuously redirect[ed]" to a wireless device without establishing a connection therewith. Nothing about continuous redirection of messages is inconsistent with internal server polling to identify the presence of new messages. So long as messages are continuously identified and redirected, as

shown in AirMobile, the current claim limitations are met.

Regarding Appellants' **argument 2)**, that "AirMobile system requires a wireless channel connection between the mobile client and the AM server for forwarding messages" (Br. 12-13), the Examiner respectfully disagrees.

Appellant respectfully submits that the mere use of the term "push" in *AirMobile* should not be treated as being dispositive. As set forth in Appellant's claims, "pushing" involves "causing to **continuously redirect** the user data items to the wireless mobile data communication device over a wireless network **without establishing a connection therewith"**. Appellant's expert testimony has been put forth to specifically show that *AirMobile* requires a connection. In particular, Appellant draws the Board's attention to the following excerpt:

> 22. The mobile communications device **connected to the desktop PC over the wireless network using AirMobile.** A password was required to make the connection. (Emphasis added)

> 23. Once the connection was made, the mobile communications device acted as a remote terminal—that is, whatever was on the desktop PC screen in the way of data, could be accessed and changed by the mobile communications device. (App. Br. at pages 23-24)

Appellant therefore submits that the Examiner's response that "[s]o long as messages are continuously identified and redirected, as shown in AirMobile, the current claim limitations are met", is not entirely accurate and glosses over the deficiency of the *AirMobile* reference especially in respect of the limitation "without establishing a connection therewith".

On page 14 of the Answer, the Examiner has summarized his position on Appellant's arguments as follows:

> While the Examiner readily admits that AirMobile/Eggleston does establish a virtual session, AirMobile/Eggleston nonetheless "continuously redirect[s]" the messages without "establishing a connection". The virtual session is established prior to any redirection and no connection is established during the redirection operation.
>
> The current claims do not preclude establishment of a session at any time, only during redirection of user data items.
>
> In summary, Appellants principally argue that the "virtual session" used by AirMobile/Eggleston is inconsistent with "continuously redirect[ing]" user data items to a mobile device "without establishing a connection therewith". Appellants previously argued that this "continuous redirect[ion]" differed from the prior art "pull" systems since it does not require a client to establish a connection with a server and request transmission of data items (Remarks filed 5/23/2012, pp. 11-12). The Examiner notes that AirMobile/Eggleston also deliver messages without requiring the client to establish a connection and request messages, and use a so-called "push" architecture to deliver messages.

Additionally, the "virtual session" used by AirMobile/Eggleston is established outside of the "continuous redirect[ion]" of messages, and thus is not precluded by the present claims.

It appears that the Examiner is treating the concepts of "having a virtual session" and "having a connection" as being necessarily mutually exclusive. Appellant respectfully submits that in the context of the applied art the term "virtual session" does not mean that there is no connection between the client and the server for forwarding messages. Appellant's expert testimony has been put forth to specifically show that the virtual session architecture of *Eggleston* does require establishment of and maintaining a connection with the server for message forwarding. In particular, Appellant draws the Board's attention to the following excerpt:

> 43. Eggleston '899 confirms that once the virtual session has been terminated, "the client will not be notified of outbound data until the client re-registers and is again coupled via the virtual session manager." Ex. 1001 at 7:55-58. This statement further supports that Eggleston '899 only sends messages to a user in response to a request, generated by the query manager, after the mobile client has registered with the VSM and the VSM has logged onto the host system. Messages are not continuously redirected or pushed as recited in Lazaridis's claims, and **Eggleston '899 acknowledges that a user will not receive any messages absent an**

active connection to the VSM and login to the post office. (Emphasis added) (App. Br. at page 25)

It should be understood that a virtual session communication architecture is used in *Eggleston* for forwarding messages so that "the amount of time the communication channel (including the more expensive wireless communication channel portion, as well as the portion via PDN 130) is tied up is kept to a minimum." See column 7, lines 10-14. A minimum connection is still a connection. In other words, "having a virtual session" and "having a connection" are not necessarily mutually exclusive in the context of the applied art.

Appellant further submits that Appellant's previous characterization of "continuous direction" (in Appellant's response filed on May 23, 2012) is non-limiting and as such it is not contradictory to or inconsistent with the arguments advanced in Appellant's Brief or this Reply Brief. Additionally, in *Eggleston*, establishing and maintaining a virtual session is an integral part of message forwarding. See FIG. 3. To characterize that the virtual session in *Eggleston* "is established outside of the "continuous redirect[ion]" of messages" is therefore imprecise because it glosses over the

fundamental requirement that a virtual session be not only established but also maintained in order to forward messages.
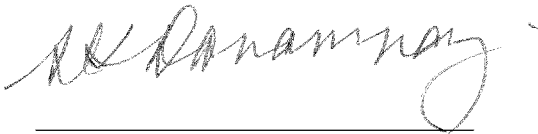
Charge Statement

No fees are believed to be due for the filing of this Reply Brief. If any fees are due or any overpayments have been made, however, please charge or credit our deposit account (Deposit Account No. 03-1130).

CONCLUSION

In view of the foregoing discussion, Appellant respectfully submits once again that the rejection of the pending claims 102-109, 111, 112 and 122-129 on the basis of a combination involving at least *AirMobile* and *Eggleston* is not proper and requests that the Board overturn the rejection.

Respectfully submitted,

Dated: August 31, 2012

Shreen K. Danamraj
Registration No. 41,696

THE DANAMRAJ LAW GROUP, P.C.
Premier Place, Suite 1450
5910 North Central Expressway
Dallas, Texas 75206
Tel (214) 750-5666
Fax (214) 363-8177